

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into the Victorian Auditor-General's Reports No. 99: Follow up of Regulating Gambling and Liquor (2019) and No. 213: Reducing the Harm Caused by Gambling (2021)

Melbourne – Monday 24 July 2023

MEMBERS

Sarah Connolly – Chair

Nicholas McGowan – Deputy Chair

Michael Galea

Paul Hamer

Mathew Hilakari

Lauren Kathage

Bev McArthur

Danny O'Brien

Ellen Sandell

WITNESSES

Ms Fran Thorn, Chair,

Ms Annette Kimmitt, Chief Executive Officer, and

Mr Scott May, Deputy Chief Executive Officer and Executive Director, Regulatory Operations, Victorian Gambling and Casino Control Commission.

The CHAIR: I declare open this hearing of the Public Accounts and Estimates Committee. I ask that mobile telephones please be turned to silent.

I begin by acknowledging the traditional Aboriginal owners of the land on which we are meeting. We pay our respects to them, their elders past, present and emerging, as well as elders from other communities who may be here with us today.

On behalf of the Parliament, the committee is conducting this follow-up inquiry into the Victorian Auditor-General's reports on regulation of gambling and liquor and the reduction of gambling harm in Victoria.

I advise that all evidence taken by the committee is protected by parliamentary privilege. However, comments repeated outside of this hearing may not be protected by this privilege.

Witnesses will be provided with a proof version of the transcript to check. Verified transcripts, presentations and handouts will be placed on the committee's website.

I welcome Fran Thorn, Chair of the Victorian Gambling and Casino Control Commission, as well as Annette Kimmitt, CEO of the Victorian Gambling and Casino Control Commission, and Scott May, Deputy CEO and Executive Director, Regulatory Operations, from the Victorian Gambling and Casino Control Commission. I invite you to make an opening statement or presentation of no more than 5 to 10 minutes. This will be followed by questions from the committee.

Fran THORN: Thank you very much, Chair, and thank you for the opportunity to appear today. None of us could have not noticed for probably the last two to three years that the gambling industry has been seriously in the spotlight and almost exclusively in the spotlight for its massive failures of trust and its poor operating. In turn, that has led to a lot of attention being paid to the regulators and what was going on that allowed this sort of thing to happen.

Visual presentation.

Fran THORN: Primarily the spotlight has been on the casinos as the largest entities in the gambling industry in Australia – and, I might add, the most sophisticated entities – but it is not just the casinos that have caused issues.

The VGCCC, as I think you heard before, is now a specific purpose regulator focused solely on the industry in Victoria. It is not a huge industry by number of participants. There are 500 venue operators, 600 keno outlets and lots of places where people can go and bet. There are a small number of very, very large providers of gambling services, and they are the casino and Tabcorp and Lotto, the two lotto providers. But in general most people gamble locally at their pub or club, online or wherever the TAB continues to have terrestrial operations.

We ourselves have about 40 – it is a slightly growing number – investigators and inspectors. We did in the last financial year 2500 inspections. We have got about 95 disciplinary actions underway. The level of disciplinary action under the VGCCC has significantly increased. We have about 100 investigations going on, and we have got three prosecutions that are either currently taking place or about to take place in the courts. The industry is diverse, from tiny little clubs that have a couple of gaming machines to the big behemoth of the casino. We are an organisation of about 160 people – as of today it may be 170 – and our target number is about 190.

Since the commission was established 18 months ago – but only came into operation formally a little over 12 months ago – we have spent a lot of time thinking about what the issues were that led to the creation of a new specific-purpose gaming commissioner and what we aspire to strategically. We have been very clear in

setting out our expectations to industry, our regulatory posture; we have done a thorough review of the organisation; and we are doing an end-to-end review of all regulatory operations, which is currently in progress. Obviously, we are improving things as we go along, but we expect that to be finalised within the next 12 months, and we will have a very confident view of oversight of the industry once that is finished.

When the VGCCC was created, it was through legislation that also gave the commission significantly enhanced powers in respect of the casino as a result of the royal commission, which has led to \$250 million worth of fines. But in many ways more importantly for the commission was the enhanced mandate over harm minimisation – not just problem gambling but a very explicit mandate to use the regulatory regime to address harm caused by gambling. So we have significantly refined our expectations of industry and made it very clear to the industry that we are not just interested in minimum viable product – not just meeting the minimum of the black letter of the law – but that as licence-holders in the gambling industry they hold also a significant social licence and we are expecting them to step up and meet our expectations, which are above the minimum standard of the law. We prefer to work collaboratively with the industry – and those parts of the industry that work well, we are very keen to work with them – but we are also making very clear to the industry that we have zero tolerance of bad behaviour. So any operators who are deliberately operating badly, who are actively seeking to cause harm, who are not operating within their regulatory framework – we will be very firm with them. We will not be tolerating misbehaviour on behalf of the industry.

We also recently released a statement on harm minimisation that talks very explicitly about harm and in a very different way than the industry is used to. It is part of our submission to you. It is a very simple statement. In the past, probably for the last 40 or 50 years, when people have talked about harm in the industry, they have talked about problem gambling and the problem of the gamblers, not the harm that the industry creates by being. That is why it is regulated, because it is a harmful product. We have turned that language around and said, like many things, harm is capable of prevention, and it is capable of prevention by those who provide the product. We have been very clear with the industry that we expect them to take a role in this. It is not just a problem of the gambler, it is a problem of the industry.

We have four arms to our regulatory approach: we license and make a whole range of other approvals and authorisations; we inform and educate, so we work with the industry to make sure the industry is operating correctly and that they fully understand the obligations of their licences; we have oversight through monitoring and analysing the industry – that is both through physical inspections but also increasingly through the use of near real-time data to observe how the industry is behaving and to act on that data to get improved behaviours from the industry; and where malfeasance is found, we are enforcing. As I said earlier, we have significantly amped up our enforcement activities in the last 12 months.

When VAGO reported in 2017, there were 13 recommendations for the then combined regulator. Of those that were specifically targeting the gambling side, or the joint approach through the two, by 2019 we had substantially implemented the majority of them. Since then, with the exception of recommendations 8 and 9, we have fully implemented them. With recommendations 8 and 9, which are the ones which really go to issues around risk and regulation, we have been discussing those with our contact from the Auditor-General. As a result of that, they are saying basically that they are superseded by the work we are currently undertaking to totally transform our regulatory operations. Therefore they have agreed with us that they would be discontinued in their current form and that we will significantly exceed them once we have finalised our transformation. But nonetheless, despite the fact that we are still looking at overhauling the organisation, it does not mean we are operating in a riskless or a totally risky environment.

The organisation uses lots of measures at the moment to determine risk. So we have our risk-based assurance plan and we have our growing data insights program. This is probably the most exciting part of what we are doing at the moment. It has enabled us to identify when there appears to be collusion in local areas between pubs to make sure that they are open, between them, within 10 minutes or operate 24 hours a day. We are able to observe when they are providing services outside their hours of operation. We have used those data insights to cooperate with AUSTRAC and the federal police on the recent project Arvon, which was the raid at the greyhounds in Springvale. That is currently before the courts. So it is a very exciting part of where we are going, and we are planning to put more investment in that as we build up our capacity. We have significant MOUs in place with the major enforcement bodies, and we are actually acting cooperatively with them in the enforcement space.

Recommendations 12 and 13 were completed in 2018, but we are taking it beyond that. We are reconsidering our total measurement framework. We concur, I think, with the Auditor-General in saying that our BP3 targets tell you not much more than, 'We do something, and we do certain amounts of it.' What we are working on at the moment is we are investigating the strength of the data that we can use, where we are going to get to look at a balanced scorecard that seeks to explain whether we are having any impact on the industry. It is an impact that will be driven by our objectives in the Act, which are around reducing crime, making for a safe industry and reducing harm. And that is it.

The CHAIR: Thank you very much for that. I am going to throw to the Deputy Chair.

Nicholas McGOWAN: Thank you very much for the presentation. Just a question in terms of the investigators: what sorts of powers do they have to investigate?

Fran THORN: I am going to hand that one to you, Scott.

Scott MAY: Yes. Thank you, Chair. Our inspectors have extensive powers to require information and require attendance at interviews, so they can issue notices to produce. All our inspectors are appointed under the Act, and there are various powers that relate to becoming an inspector. In addition, the Act contains the ability for powers to be vested in commissioners or authorised persons of the commission as well.

Nicholas McGOWAN: Can they tap phones?

Fran THORN: No.

Scott MAY: No. I do not believe we –

Nicholas McGOWAN: Can they seek a warrant to do so?

Scott MAY: Yes, we can seek warrants from a court.

Nicholas McGOWAN: And do you know whether that has occurred at all?

Scott MAY: Not in the recent past, as I understand it.

Fran THORN: No.

Nicholas McGOWAN: It has not?

Fran THORN: No.

Scott MAY: No.

Nicholas McGOWAN: Not ever?

Fran THORN: We would have to take that one on notice. But certainly not since we have been there, no.

Nicholas McGOWAN: No. Okay. If you could take that on notice, that would be great. Thank you.

Fran THORN: Yes.

Nicholas McGOWAN: I am just curious because obviously in the current environment and given what has happened previously in terms of perhaps the failures, one would turn their mind to think about the level of power your officers have and whether that is sufficient or whether they need more. That is where I am going with it.

Fran THORN: Okay. Well, at the moment we think the officers have quite considerable powers, and the commission itself, vested in myself and my fellow commissioners, has even stronger powers in respect of how we can take people through a prosecution process, call them to a hearing, hold them under oath at a hearing and then take whatever disciplinary actions. We have not at this stage, I think, found any weakness in the powers of the investigators, but I am sure we would always be happy to consider further powers.

Nicholas McGOWAN: Okay. Where my mind takes me then is that given some of the failures that have occurred, albeit under previous watches, if it is not a question of the powers they have, it is a question of how they have administered those or how those have been utilised. What are the key learnings you have discovered in your time?

Fran THORN: Okay. The key learnings for me, as Chair, and I think for my fellow commissioners have been that it is really important that we make our expectations clear and then we follow up on them. We have left the casino in no doubt that we are fully prepared to take full advantage of the expanded powers in respect of the casino. We are making it very apparent to the industry that we are very prepared to take action when they do not behave the way they should. Through our provision of EGM licences we are also making it clear to the industry that we have expectations that the owner of a licence will take on board as part of their owning of that licence the need to think about harm and to prevent harm as much as they can. We are sending I think strong messages to the industry to the extent that if I take licence applications – we have very few of them at the moment – one of the main lawyers who operates for people who are seeking EGM licences has indicated to us that they are sort of giving people advice: unless you are prepared to take on board harm minimisation requirements, you will get some strong conditions on your licence, so you might want to think about it before you do.

Nicholas McGOWAN: You may know this – I am not a subject matter expert on gaming, other than what I read, obviously, as part of this inquiry: does the authority have the power to remove, suspend or cancel licences?

Fran THORN: We do, yes.

Nicholas McGOWAN: In respect of the casino itself, what is the legal standing there?

Fran THORN: In respect of the casino and indeed all licence-holders. At the moment our ability to remove the licence from the casino is limited because of the two-year period of grace that they have been given to get their house in order following the royal commission, but in the early part of next year the commission will be making a decision about whether the casino has returned to suitability and should retain their licence or not. We are taking both sides of that question extremely seriously. We have a stream of work that is focused on identifying if they are suitable and a stream of work that is focused on, if they are not suitable, how they will be removed as the licence-holder with a minimum of disruption.

Nicholas McGOWAN: And when might you expect the public will be informed of that outcome?

Fran THORN: Our last date to inform the public of that is 14 April. It is not going to be an easy decision. We get the special manager's report on probably about 14 January. We have 90 days following that. I would be aiming to make that decision before 14 April, but I will not make a promise yet because I have not seen the report and it is going to be a pretty big task to come to that decision. We have got a lot of evidence that we will have to wade through and a range of questions that we are going to have to answer about whether they are or are not suitable.

Nicholas McGOWAN: Thank you.

The CHAIR: Thank you. We will go to Ms Kathage.

Lauren KATHAGE: Thank you. Thanks so much for your submission and presentation. About your risk-based annual assurance plan that you have there, we heard from the Victorian Auditor-General this morning that it is really important that there is a way for you to assure yourself that the root cause of prior issues does not reoccur. So can you tell me a bit about your approach to regulation and ensuring that those issues do not re-appear?

Fran THORN: It would come as no surprise to the committee that the current commission is deeply focused on making sure that we do not repeat what occurred in the past, and that is why we have taken an approach of looking at the organisation from top to bottom about what it does, how it exercises its power and how it presents itself to the industry in order to make it very clear that as a regulator we are going to be firm but fair. As part of our current regulatory reform, which I will ask Annette to speak about, we are looking across everything we do in the regulatory space to make sure that we know exactly what is going on, that it is fit for

purpose and, more than that, that it will be fit for the future. But I might ask you, Annette, to talk a bit about what we are doing in that space.

Annette KIMMITT: Sure. Thanks, Chair. There are two streams of work that we are focusing on. One is the longer term piece of work that is dealing with the systemic issues that the Auditor-General referenced, and the other is not standing still while we do that but putting in place a range of measures that make sure that we are taking a risk-based and intelligence-led approach to what we are doing today. On the first point, the more systemic end-to-end review of our regulatory approach, we are taking every sector of the industry that we regulate, and we have done a very detailed analysis of our current regulatory approach for each sector, so for the casino, for EGM licence-holders, for sports-controlling bodies and for wagering service providers. We are looking at it by sector of the industry. We have got full, detailed documentation of our current methodology, and we are working on a process to completely evolve and futureproof that methodology. That includes how we use data – real-time data and analysis – to monitor the various sectors of the industries. So that program of work had three phases to it. Phases 1 and 2 are completed. We are moving into the final phase, which is that evolution in future state design. That will be completed over the coming 12 months, and we are doing it by subsector of the industry, so it will progressively come online. At the same time as we are doing that, the organisation is investing quite heavily in a range of new technology solutions, a new regulatory platform and a data strategy for the organisation as well. So we are remediating those root-cause issues, but as an interim step we have actually implemented over the last 12 months and prior to that a range of measures to make sure that we are taking a risk-based approach. Our Chair has touched on some of those things already, but I am happy to elaborate if you want further information.

Fran THORN: I am not going to comment on the previous organisation. They operated in entirely different circumstances. I did note that the Auditor-General did not make any comment on their not-particularly-adequate budget, which might have also had something to do with the position they found themselves in. But it was a very old-fashioned organisation with very little in the way of the kind of technology we would expect to link all the processes and make sure that we as an organisation were as automated in our approach to regulation as possible. Therefore in the past, if you wanted to do something with the casino, you might have had to go to 10 different parts of the organisation to get a total picture of the casino. Our aim is that there will be a totally automated approach that means, when looking at the casino or any of the subsections, you can go to one place and you will know exactly what is going on.

Lauren KATHAGE: In terms of knowing what is going on, you provided information that you have developed an impact measurement framework. We have not been able to see that. I do not know if that is publicly available.

Fran THORN: It is not publicly available at the moment, but we are working on it. Annette, you might –

Annette KIMMITT: Yes, I am happy to talk to it. We spent about six months consulting –

Lauren KATHAGE: I will just ask if you are able to give some examples of the outcomes-based measures that you are using.

Annette KIMMITT: Yes, sure. As the Chair already alluded to, and the Auditor-General, the BP3 measures, we feel, are by and large inadequate in really measuring and giving any sense of the impact and the outcomes the organisation is achieving. So we have redesigned a balanced scorecard, and we are in the process – we spent about six months consulting on this, the first six months of last financial year – of building the evidence base. Once this is built and we have got a couple of years of measurement under our belt and we have proved this up, we have agreed with DJCS that we will look to redefine our BP3 measures. Some of the measures that we are starting to build data around so that we can measure impact are things like: when it comes to gambling harm, year-on-year reduction in the percentage of people in the low-, moderate- and high-risk population categories for gambling harm; we are looking at trying to achieve low-risk ratings in the annual assessments regarding money laundering and terrorist financing that AUSTRAC undertake; and we are looking at measures that assess the awareness, availability and accessibility to the community of tools and information to monitor and manage their gambling. So they are a few examples of the sorts of outcomes-based measures we are looking to build.

Fran THORN: And the reason we are taking what seems like a very slow approach to it is that the datasets around gambling are not particularly good, so some we are going to have to create. It has not been an area or an industry that anyone has found particularly interesting to research actively, so getting very contemporary data that would enable us to measure some of those, because they are very ambitious things to measure, means that we may well have to create the data from scratch to do that.

Lauren KATHAGE: Using data to drive your operations, you explain in your submission that in May of this year you conducted a regional compliance blitz using indicators of potential harm to target operations. Are you able to let us know if that use of the data or indicators to target operations meant that you had a higher rate of non-compliance that you hit, what learnings you had from that experience and whether you are then applying those to your policies or how you do operations in the future?

Fran THORN: Before I hand over to Annette, I would just say that the approach we took to the regions – we did blitzes, as it were, and we made it very clear to the regions we were going to when we were coming so we did not sort of leap out of the bushes at them. We sought to get a lot of cooperation from the venues as part of that process. The blitz was very successful because you might think, having told everyone that we were turning up, that everything would have been perfect. It was not, but we were very happy with the level of cooperation we got. Annette, you have got probably greater detail on that.

Annette KIMMITT: Yes, thanks, Chair. When we did the assessments for where we wanted to send our inspectors, we looked at the increases in gambling activity post COVID in the regions. We looked at inspection and breach history across the regions. We looked at the gaming machine saturation, we looked at the SEIFA ranking as a possible marker of disadvantage and we used a range of other data that sort of indicated to us potential red flags for money laundering and for high risk of harm. They were the sorts of risk-based factors that we used as inputs into making determinations about where we went. As the Chair said, we preceded those blitzes with an education campaign into the regions to make sure that operators were aware of their responsibilities and encouraging them to uplift their game. That said, when we did go out into the regions, we did experience significant rates of non-compliance in particular regions. I might pass to my colleague Scott May to perhaps talk about which of the regions, for example, we –

Scott MAY: Thank you, Annette. We are in the process of concluding, I suppose, a report with respect to the regional blitz. It does appear that of 407 inspections we had a breach rate of 70. I would need to compare with others to determine whether that is high by way of comparison or not, but a variety of breaches with respect to both harm minimisation concerns and issues and surveillance footage retention. In terms of the local government areas focused on, I probably cannot from the data right now ascertain which local government areas were particularly poor with respect to breaches or not. I do know anecdotally the northern corridor of Victoria seemed to, I suppose, have a higher rate of breaches compared with other local government areas. I understand the City of Greater Shepparton in particular had a high level of breaches compared with other local government areas.

Lauren KATHAGE: You spoke about conducting a number of blitzes, but what proportion of venues, licences, businesses have been compliance checked since the establishment of the VGCCC and what are the key findings from that?

Fran THORN: Unless you know that off the top of your head, we are going to have to take that one on notice.

Annette KIMMITT: We might take that one on notice. We know how many inspections, but we will have to take on notice the proportion findings and come back to you.

The CHAIR: I might just interrupt that line of questioning and go to Ms Sandell, because I know she has a question.

Ellen SANDELL: I have just a couple of questions. Thanks so much for appearing today. The Auditor-General talked a bit about when you are looking at root causes of regulatory failure, looking at things like the structure of the organisation but also culture. You talked a little bit about how the structure has obviously changed within the organisation. Can you talk a little bit about what you have done around culture – for example, how many of the same people have moved across from the old organisation or what has been done to improve culture?

Fran THORN: We have paid a lot of attention to culture and to instilling quite a different culture in the organisation. We started primarily with people from the old organisation. I would not damn them; they are all totally dedicated to the industry and work really hard. And along the way we have been adding new staff, so we have got an interesting mix of staff going on at the moment.

Probably the most significant thing we have done around culture is to try and instil – I think successfully so far – a sense of courage or the impetus to act in the organisation. So if I were to make any observation about the organisation of old, it felt quite tentative to me when I arrived. I have a past history in organisations that have tended not to be quite so tentative. What we have been working to do with the organisation is to say, ‘We are going to work from information and from facts. We are going to be very clear with our understanding with industry of our expectations of their behaviour, and if they do not behave, then we expect people to take action.’

What we are finding now is that – in the past when lots of things might not have got raised, things might have been noticed – the inspectors are now coming back and telling us about quite systemic issues that they might be seeing occurring across the industry, which we have then used as a basis for a blitz. For example, inspectors came back – they now think we will take action, so they are reporting things – and told us that there were relatively regular failures in the presence of responsible gambling officers on the floor that are supposed to be there at all times, so we did a blitz on it and found that they were right. We took very firm action against one venue licensee in particular, and that firm action resulted in 100 per cent compliance very rapidly. So it is changing that kind of culture.

We are embarking on a major skilling program for the organisation so that we have both base skills that are required for good regulatory process in place as well as a high level of analytics and the capacity to use data to make observations about how the industry is behaving, how we should target particular areas and what the emerging risks are for us. So it was not just about a new structure; that had to happen because we got split out. Most of our focus has been really examining regulatory process and the culture of the organisation and the skill of the organisation.

Ellen SANDELL: Thank you. I noticed in your presentation you said one of the roles is looking at current and emerging trends. Obviously, the world has changed quite a bit since the VAGO report. I am thinking of the rise of online gambling – we have had COVID, obviously – but also things like gambling ads in sport, which are becoming more prevalent. Can you talk a bit about the emerging trends you are seeing and how you are actually dealing with them?

Fran THORN: I think probably it is not even an emerging trend, it is a clear and present issue, and that is online gambling. Most of the online gamblers are regulated in another jurisdiction. So they have gravitated to a particular jurisdiction for reasons known only to them – I can speculate about why it might be – and we are looking at how we can use national agreements about standards of advertising and behaviour to actually put in place Victorian-specific regulations to hold them more firmly to account than they currently are. For example, one of the things that online gambling WSPs –

Annette KIMMITT: Wagering service providers.

Fran THORN: wagering service providers – are required to do since the end of last year is produce an activity statement that makes it very clear to the gambler how much they have lost and how much they have won when they do win. And we have recently done a study of I think the seven or nine WSPs that cover about 95 per cent of the market and their activity statements. Well, I suppose they kind of meet the requirements of the national agreement, but in our view they go nowhere near meeting them. We are about to have a short consultation with them on what we think are the failings of the information they are giving to their consumers, and then we will issue a direction that says, ‘You need to provide statements of this ilk.’

Ellen SANDELL: So you are seeing it as your role to hold them to national standards even though you are a Victorian-specific body. Okay.

Fran THORN: Yes, because they are covered by national standards. We are working collaboratively with other state colleagues around this issue, because the majority of losses in gambling in Victoria still primarily come from pokies, but the rising losses are from what is collectively called wagering and online gambling, and primarily it is a combination of sports betting and online gambling on horses and things like that.

Ellen SANDELL: Thank you. Final question, Chair. Obviously, a regulator is only as good as the regulations that you have, that you can hold these companies to, and also the fundamental design of the product and what it is allowed to do. So this might be a bit of a cheeky question, but are you hamstrung by the tools that you have available and do you need more tools available to you?

Fran THORN: It would be too much to say we are hamstrung. We have recently looked very closely at our environment around the casino and there are one or two small things, but they are not deal-breakers, because we have made ourselves more fit for purpose and have shown the casino that we are not going to take any prisoners. We are reasonably confident that we have got a framework in place there. If we had a wish list in pubs and clubs land, we might talk about – we do not have any capacity for infringement notices, for example, so an immediate on-the-spot fine, as it were. We have to go through quite an elaborate process. But we can go through that elaborate process and still get results, so it is not stopping us, it just slows our processes down. The thing we are really dealing with with the industry, in my observation, is that the industry in the past has lawyered up the minute the commission has come knocking – and, like, seriously lawyered up. They have lots of money, and the commission does not have anywhere near as much money as they do, and they use legal process to slow down what the commission can do. We are lawyering up a lot more these days.

Ellen SANDELL: So do you have any, I guess, jurisdiction around recommendations for how to make the product less harmful? I know we have had announcements around maximum bet loading on cards and things like that.

Fran THORN: Certainly things like carded play and spin rates are two recent announcements by the government that will help to make the product less harmful. It will not totally take the harm out, but it will also mean we are able to monitor much more closely what is happening in respect of harm. Equally we will be looking to how we can work with the industry to get them to use the technology they use to be more active about monitoring harm. The big WSPs keep telling us that they have got all this fabulous technology that can monitor for all sorts of harm and raise all sorts of red flags, so we will be calling them on that and we will be expecting them to use that to monitor for harm and intervene – not just admire the problem but actively intervene in certain circumstances. So we are constantly looking at what we might be able to do to require the industry to be more active in this space and to use our regulatory tools to require this either through a direction or other methodologies that we might use.

Ellen SANDELL: Thank you.

The CHAIR: Okay, I am going to go to Mr O'Brien, but just quickly – and I am looking for a really quick answer, Ms Thorn – infringement notices: would that help improve compliance by the industry body or the organisation sooner rather than later?

Fran THORN: We think it would in the sense that they would get an immediate fine, which would make them pay attention much more quickly than through the quite long processes. But it would never take away from us the need to take more elaborate action against people who have repeat and deliberate misdemeanours.

The CHAIR: Okay.

Nicholas McGOWAN: So what is the principal behaviour you would issue an infringement for currently that comes to your mind?

Fran THORN: It would be things like absence of responsible gambling officers on the floor, perhaps, or the fact that they do not have YourPlay connected. They are just a couple that I can think of.

Scott MAY: There are various failures to maintain responsible gambling registers.

Fran THORN: There is a whole bunch of things.

Annette KIMMITT: CCTV failures.

Fran THORN: CCTV.

Nicholas McGOWAN: Could you just provide us with a list of the things you would be – obviously you have got that in mind.

Fran THORN: Yes, we are happy to take that on notice.

Nicholas McGOWAN: That would be great. Thank you.

The CHAIR: Mr O'Brien.

Danny O'BRIEN: Thank you. Just while we are on this, I wonder if you could provide a list of the staff. I think you said there are 40 inspectors at the moment, heading for 190 staff. Could you provide a list of the positions, the classifications, of what everyone does?

Fran THORN: Yes, I think we can.

Danny O'BRIEN: And further to Ms Sandell's questions about online gambling – sorry, first I will go to your most recent comment about technology. Are operators or VGCCC utilising facial recognition technology in venues to identify (a) criminals or criminal activity or (b) problem gamblers?

Fran THORN: The main venue that I can think of that uses facial recognition technology is the casino, and I think they have got to about 80 per cent coverage in use of facial recognition technology.

Danny O'BRIEN: What do you mean by coverage – 80 per cent of the venue?

Fran THORN: Eighty per cent of the venue, yes. We might have to take this on notice, but I do not believe – we are certainly not requiring venues to use FRT at this stage.

Danny O'BRIEN: South Australia has got something similar.

Fran THORN: I think they have.

Danny O'BRIEN: As a regulatory –

Fran THORN: Yes, and we will be having a look at that. Obviously, these things all have a cost to the industry and would need to be implemented, but there is something to be said around FRT. It would be most effective if it was also then linked to some kind of national or statewide register on exclusions or to databases about known criminals using various venues.

Danny O'BRIEN: Just on the carded play, perhaps you can assist me. There is carded play, and there have been some descriptions, I think you mentioned actually in the presentation, of cashless play.

Fran THORN: Cashless play, yes.

Danny O'BRIEN: Is not carded by definition almost cashless?

Fran THORN: It is. They tend to be used interchangeably. The intention is to remove the use of cash in gaming venues. The primary driver of that of course is money laundering. So if you cannot use cash, you will have to apply for –

At this stage it probably looks like it will be a card, but I expect very shortly that will be overtaken by – I do not have a phone with me but an app that you would have on your phone. But you will still have to apply for it and therefore give personal details about who you are so that there can be monitoring for money laundering. We are not interested in people's private details, so we would not be collecting the information for that purpose. But we would use the information then to monitor about where you can see areas of high-intensity gambling, and obviously we would be monitoring for money laundering.

Annette KIMMITT: I was just going to also clarify that. So under the current regime we have here in Victoria with the carded play that has been implemented at the casino, those cards which will become a mandatory precommitment system, YourPlay. They track play, so they are linked to identity, but they are not cashless play. A player can still load cash into a poker machine.

Danny O'BRIEN: You go to the casino. You put in a hundred bucks.

Annette KIMMITT: You can put in \$100 cash.

Danny O'BRIEN: You have got to put your card in.

Annette KIMMITT: You have got to put your card in to recognise you, and it will track and monitor your play. That is the current technology.

Fran THORN: That is the current technology. We would expect that to evolve.

Danny O'BRIEN: And when you say that there are tracking issues, obviously there are some civil liberties and privacy and data and all that, but that will not be VGCCC, will it? That will be Intralot.

Annette KIMMITT: We have access to all of that Intralot data. For example, at the moment about 40 per cent of all play on EGMs at Crown is now carded play, so we are starting to see, through the monitoring system, very rich data on play patterns. And it gives us an ability where, for example, we see a repeat failure of Crown to intervene in line with their play periods policy – so you see people who have continued to gamble continuously for periods of time – that gives us the data to go in and deal with Crown on those matters.

Fran THORN: Some people might say that providing data is an infringement of civil liberties, or providing their details. It is in fact to stop money laundering. It will be collected by Intralot, which will be covered by very strict regulations about how that data can be used. Our use of it is not to monitor what individuals are doing but is to, as Annette says, monitor for patterns of play that we would then go to a venue and say, 'Over this period of time and in these circumstances there have been some extraordinary gambling losses going on. What are you doing around harm minimisation, for example?'

Danny O'BRIEN: But who would then? If you are not going to monitor individuals –

Fran THORN: We would expect the venue.

Danny O'BRIEN: The venue. What about if you are in future going to have the prevention of gambling harm function? Is that a situation where you would be intervening on an individual basis?

Fran THORN: We would be intervening with the venues. I do not think anyone is talking about the individual support being available to people with gambling issues that is currently provided by the VRGF – I do not think anyone is suggesting that would stop. That would continue. Our interest is getting the venues themselves to take on their responsibility as a holder of a licence not to harm people.

Danny O'BRIEN: Right. Just one quick one, if I could, Chair, on online gambling in particular. This is relevant to all of that because if you make it harder for any gambler, whether they are problem or otherwise, to gamble, if they have got a problem, they will look for other ways to do it.

Fran THORN: They will.

Danny O'BRIEN: In response to Ms Sandell's question you talked a fair bit about wagering providers. What oversight have we got, if any, of the online gaming? When I am talking about that, you can look up a website now and log in to a pokie venue, presumably offshore. How do we follow the problem gambler in those instances?

Fran THORN: In the online environment, not the – okay. As I said, by and large, they are registered and licensed in the Northern Territory. However, we do keep an eye on them, and we are, as I said, thinking of ways we can implement measures that in a Victorian-specific environment means that they would have to behave in particular ways and they would have to account to us in particular ways for their behaviour.

Danny O'BRIEN: But in terms of the gambler themselves, do we have any visibility of them at all?

Fran THORN: Not us directly, no.

Danny O'BRIEN: I mean, a venue can see Danny O'Brien going into the pokies and being there for 36 hours or whatever. But if Danny O'Brien then says, 'Oh, I've got to bloody register. I've got to get a card. I'm not doing any of that. I don't want the government watching me. I'm going to go home and I'm going to blow \$30,000 in a day online,' have we got any visibility of that at all, the problem gambler?

Fran THORN: Our visibility of that is through the data provided by the online gambling providers, and what they tell us is they have available to them technology that would enable them to monitor individual gambling behaviours and monitor it for what are known signs of excessive or problematic gambling. At the moment their interventions in that space are pretty weak.

Danny O'BRIEN: They send someone an email saying, 'We think you've gambled too much.'

Fran THORN: Maybe, if we are lucky. We are contemplating at the moment, because we are not the people with whom they hold the licence, how we can use the measures in place that would put a higher requirement on them when they operate in Victoria and with Victorian gamblers that would mean that they intervene more actively.

Danny O'BRIEN: Do you think that becomes more important given the EGM –

Fran THORN: Absolutely. I do not think anyone is that interested in the VGCCC trawling all over their individual gambling data. I think it is really important, and it is part of harm minimisation, that those who provide the service act to actually intervene when people are being harmed by the service, and we will work very strongly in that space to ensure that they can, within the powers we currently have.

Annette KIMMITT: I might just add, Chair, that the nature of some of the complaints we have been receiving to our offices would suggest that those online wagering service providers are not in fact intervening at all and leveraging the data that they have.

Danny O'BRIEN: I would be surprised if they were given the fact that you suggested they might be.

Annette KIMMITT: They claim that they can and that they are, but we have not yet seen evidence of that.

Danny O'BRIEN: So I guess that is the concern that we more heavily regulate EGMs, for example, and it just sends the problem gamblers somewhere else.

Fran THORN: That would be of great concern. As I said, we are looking to see what we can use within our current regulatory tools to try and do something about this in the state of Victoria, because unfortunately our remit ends at the border.

Danny O'BRIEN: Yes. I know that you said data sets are not great, but do we have data at all on losses for EGMs, casino –

Fran THORN: Yes, we do.

Danny O'BRIEN: Online gaming?

Fran THORN: Yes.

Danny O'BRIEN: Could that be provided to us?

Scott MAY: Yes, we could. I believe online wagering, because the taxation is captured at point of consumption, will actually sit with the State Revenue Office, so we will certainly have –

Fran THORN: But we can try and get it.

Danny O'BRIEN: If there is data on the percentage of where the dollar is lost –

Fran THORN: We do monitor it and we do break it down by various segments: casino, pubs and clubs, wagering providers and in sports.

Annette KIMMITT: In very rough numbers, it was last year – again these are very rough but we will firm them up for you – about –

Fran THORN: \$3.02 billion on pokies, \$2.6 billion on wagering and service providers, and that included sports betting. Then there is a small amount of keno and lotteries.

Danny O'BRIEN: What was the first figure, sorry?

Fran THORN: About \$3.02 billion.

Danny O'BRIEN: On EGMs?

Annette KIMMITT: Yes.

Fran THORN: These are losses.

Annette KIMMITT: They are still far and away the largest losses in Victoria, but the fastest growing are from online wagering.

The CHAIR: Mr O'Brien, I know you have a lot of questions, and I have got questions down here, but we are actually 5 minutes over.

Fran THORN: We are happy to take any in writing.

The CHAIR: Yes, we are 5 minutes over time. I know Mr Galea had a question that he is just going to ask and you can take it on notice, and perhaps if there are other questions, we can write through PAEC for a response. Are you happy with that?

Danny O'BRIEN: Yes, I am pretty much done. Well, I could go for another hour.

Fran THORN: Well, we are happy to chat because we are quite excited by what we are doing.

The CHAIR: No, it is a great conversation, and it is something that we all very much feel passionately about. Mr Galea.

Michael GALEA: Thank you, Chair. Mr May, you talked about the regional blitz and a particular focus on different areas. Could you provide the committee with a breakdown of compliance results by LGA?

Scott MAY: I will need to take that on notice, but yes.

Michael GALEA: Thank you.

The CHAIR: Okay. I just want to thank the three of you very much for appearing today – this has been a really insightful conversation – and for the information you have provided us with. Like I said, we could just keep going for another hour. The committee is going to follow up on additional questions or questions taken on notice in writing, and just so you know, responses are required within five working days of the committee's request. The committee is now going to take a very quick 5-minute break before recommencing the hearing. I declare this hearing adjourned.

Witnesses withdrew.